

LOCAL CRIMINAL RULES OF COURT

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RULE NO. 1 BAIL RULES

The Court or any issuing authority, and the Clerk of Courts, shall accept as lawful bond any type bail as set forth in Pennsylvania Rule of Criminal Procedure 4006 provided that the bond is in the form set forth in Pennsylvania Rule of Criminal Procedure 4014.

Issuing authorities (district justices) shall furnish a copy of the Pennsylvania Rule of Criminal Procedure 4006 as well as a copy of Local rule No. 2 and explain the purport of said rules to every defendant charged with a felony or misdemeanor at the arraignment of said defendant.

The issuing authority shall furnish any defendant reasonable time to perfect bail including that of posting realty before committing any defendant to incarceration for failure to post bail. No defendant shall be prevented from posting bail by means of realty for failure to produce a deed for the said realty when the deed is held by a financial institution provided, however, that photostatic and true copies of the said deed are posted with the issuing authority of Clerk of Courts within three (3) days of the arraignment of the defendant by the issuing authorities.

Realty for the purposes of bail shall be in the actual net value of the realty. Net value of the realty shall be determined by the following formula:

- (1) The Court, issuing authority, or Clerk of Courts shall accept the fair market value as derived from the assessed valuation of any property set by any county within the Commonwealth of Pennsylvania as a minimum value of said realty. The Court, issuing authority, or Clerk of Courts shall then deduct from the said value the actual amount of any encumbrance, lien, judgment, mortgage, or obligation of record to determine the net value.
- (2) Any defendant who asserts that the aforesaid valuation of any realty is less than the true market value shall have the right to submit to the Clerk of Courts written evidence by any licensed real estate appraiser or broker that the valuation set by the county does not reflect the fair market value of the realty. Notice of the defendant's objections and copies of any written appraisal shall be presented by the defendant to the district attorney and filed of record with the Clerk of Courts. The Clerk of Courts shall then make a finding of fact based on said evidence and accept or reject the realty as bail. The defendant or district attorney shall have the right to appeal said determination by the Clerk of Courts under Rule 4005 to the Court of Common Pleas. This procedure shall not be available to a defendant until after preliminary hearing or a waiver of preliminary hearing.

RULE NO. 2 AUTHORIZATION FOR CASH BAIL

A) A district justice (Issuing Authority) shall allow and the Court may allow defendants charged with a crime or crimes to furnish as bail with the district justice or Clerk of Courts a sum of money in United States currency equal to ten percent (10%) of the full amount of the bail fixed by the district justice or the Court. The district justice or the Court may require a third person to act as surety and require the surety, as well as the defendant, to execute the required bail bond. The sum of money may be furnished by the defendant or by a third party, and the bail bond shall disclose who furnished the money. No surety company or professional bail bondsman, or agent thereof, shall act as a third party surety under the provisions of this rule.

NOTE: See Pa. R. Crim. P. Sec. 4007(c) for persons not authorized to act as surety.

B) When the conditions of the bail bond have been performed and the accused has been discharged from all obligations of bail bond, the Clerk of Courts shall return the amount deposited less the balance to be retained by the Clerk of Courts as an administrative cost, which shall be twenty-five dollars (\$25.00). The monies retained by the Court shall be considered as earned at the time the bail undertaking is executed. The retention fee withheld by the district justice or by the Clerk of Courts shall be for the use of the County and shall be received and accounted for by the Clerk of Courts. The retention fee withheld by the district justice shall be forwarded immediately to the Clerk of Courts upon receipt.

The cash received as bail by the district justice (less the \$25.00 fee) shall be retained or deposited in their securities account by the district justice until the preliminary hearing is held and in the event the charge(s) is not returned to Court the bail shall be returned less the \$25.00 fee and in the event the charge(s) is returned to Court or the preliminary hearing is waived the district justice shall then forward the bail with the appropriate papers of the case to the Clerk of Courts as required by the Pennsylvania Rules of Criminal Procedure.

C) If the accused does not comply with the conditions of the bail bond, the Court may enter an order declaring the bail to be forfeited. Notice of such order of forfeiture shall be mailed forthwith to the accused at his last known address. Such notice shall likewise be given to the surety, if any. If the accused does not appear and surrender to the Court within fifteen (15) days from the date of forfeiture, or within such period to satisfy the Court that appearance and surrender by the accused is impossible and without his fault, the Court may enter judgment for the County and against the defendant and/or surety for a sum not to exceed the full amount of the bail.

D) If the Court orders the defendant to pay the fine and costs of prosecution, the balance of the amount deposited under this rule by the defendant or the surety, if any, may be applied to the payment of said fine and costs upon written

authorization of the depositor.

E) Upon authorization in writing of the party who furnished the deposit, the Court or its designee may order whatever amount is repayable from such deposit to be paid as the depositor directs.

RULE NO. 3 LOCAL REQUIREMENTS FOR LICENSED BONDSMEN

5/6/86

A) Annually a copy of the state license shall be filed in the office of the Clerk of Courts upon payment of a filing fee of twenty-five dollars (\$25.00), giving bondsman's registered place of business, along with,

(1) A financial statement under oath showing deeds of property by Deed Book Volume and page number, in whose name or names title to the property is held, property location and street number, fair market value of the property based upon the assessed value of the property for county tax purposes and any mortgages, judgments or other liens and their amounts. Property that is not owned individually by a bondsman will not be accepted as security for bonds unless there is a current proper power of attorney filed in the Clerk of Courts office.

(2) A complete statement of all outstanding bonds with each amount, including the caption of each case and the name of the defendant bonded and what the defendant is charged with. This statement is to also include all bonds written in other counties.

(3) The forms upon which the above referred to statements shall be submitted to the Clerk of Courts shall be supplied by the Clerk of Courts to the bondsmen.

(4) The above referred to statements are to be filed within thirty (30) days of the adoption of this rule and any changes with regard to the above referred to statements shall be submitted before the tenth (10th) of the following month after the said change or changes occur.

B) The Clerk of Courts shall keep a list of all eligible bondsmen with their registered place of business on file along with the above referred to statements.

C) The bonding limit of each eligible bondsman shall be up to seventy-five percent (75%) of the net fair market value of the property listed in the statements above referred to, and further, the bonding limit may be increased by the posting and assigning of securities to the Clerk of Courts and said assignment must be approved by the Court before being accepted by the Clerk of Courts, and in the event such securities are posted, the bonding limit of that particular bondsman shall be increased up to seventy-five percent (75%) of that value and the Clerk of Courts shall determine from

the financial statements and from any additional security posted the bonding limits of each bondsman and shall not accept any bonds from a bondsman who has exceeded the limit as computed.

D) Bonds of those professional bondsmen not complying with the above will be unacceptable in Cambria County.

RULE NO. 11 ATTORNEYS -- APPEARANCES AND WITHDRAWALS

A) Counsel for defendant shall enter an appearance in writing with the Clerk of Courts promptly after being retained or appointed and serve a copy thereof on the attorney for the Commonwealth. If a firm name is entered, the name of an individual lawyer shall be designated as being responsible for the conduct of the case.

Counsel shall not be permitted to represent a defendant following a preliminary hearing unless an appearance is entered, except that a petition to set bail may be presented without the entering of an appearance.

B) Counsel for a defendant may not withdraw his appearance except by leave of Court. Such leave shall be granted only upon motion made and served on the attorney for the Commonwealth and the client, unless the interests of justice otherwise require.

COMMENT:

This rule is basically the same as the state rule. This local rule is primarily intended to emphasize the necessity of the entering of appearance.

RULE NO. 21 SUMMARY CONVICTION APPEALS

When an appeal is taken from a summary conviction arising from the violation of a municipal ordinance, the prosecution of the case in the Court of Common Pleas shall be handled by the solicitor, if any, of the municipality involved.

COMMENT: The reason for the above rule is that the solicitor of the municipality involved would have a better grasp of the issues arising from the violation of that municipality's ordinance.

RULE NO. 31 CRIMINAL PROCEDURE FOR ARRAIGNMENTS AND PREPARATION OF TRIAL LIST AND PRELIMINARY CALL OF TRIAL LIST.

A) Arraignments in criminal cases will be conducted as prescribed under R.C.P. 303 and subject to the following requirements:

(1) The district attorney will make a list of the cases ready for arraignment and furnish copies thereof to the judges, court administrator and clerk of courts. This list shall be provided to the above at least one (1) day prior to arraignment date of those specific cases.

(2) Arraignments will be conducted on Tuesday of every week at 1:30 o'clock P.M. unless a holiday is on Tuesday and in that event the arraignments shall be on Wednesday of that week.

(3) Defendant and counsel, if appearance is entered, will be furnished a written "notice of arraignment," sent by first-class mail or delivered at least five (5) days in advance. This notice will be mailed to counsel of record if defendant is represented, with an information copy to the defendant. Unrepresented defendants are to be notified by first-class mail. This will be done by the district attorney. The time limit set forth hereinbefore of such notice is directory only and does not preclude personal service and/or attachment of the body of a defendant who has no visible place of abode or who furnishes an incorrect or insufficient address, or other reasonable cause.

(4) If a defendant does not appear for arraignment or has not waived arraignment through counsel of record, the Court may direct a bench warrant for his immediate apprehension so that he may be arraigned as soon as practicable.

(5) The district attorney shall prepare a criminal trial list and submit it to the court administrator within (6) six days of the appropriate date trials are scheduled to begin. The defendant shall be given at least ten (10) days notice of trial. Notices of trial shall be sent pursuant to the method set forth in sub-paragraph (3) above.

(6) There shall be a preliminary call of the criminal trial list on the Friday preceeding (or on the Thursday preceeding, if Friday is a legal holiday) the date jury trials are to begin during the year which shall be at 9:00 o'clock A.M., prevailing time, in Courtroom #1, Courthouse, Ebensburg, Pennsylvania. The district attorney and defense trial counsel of record as well as the defendant in each case shall attend the preliminary call of the trial list if the case remains on the trial list (both jury and non-jury) as of that date or time and is not disposed of. The purpose of the preliminary call will be to determine the status of the case and to avoid possible delays and to aid in the assignment and scheduling of cases for those jury trial dates generally. Nonattendance at preliminary call may result, when no cause is shown for nonattendance, in sanctions or fine, same not to exceed one hundred dollars (\$100.00), or bench warrants may be issued for those defendants who do not appear.

COMMENT:

Counsel should be alert to the danger of potential conflicts of interest when there is more than one defendant in a criminal case and there should be informed waivers both in writing and on the record when even the possibility of such a conflict exists and those offices, including the Public Defender Office, must be alert to this possibility to avoid representation of different defendants in the same case.

RULE NO. 41 DISTRICT ATTORNEY'S PRELIMINARY CONFERENCE

Every defendant, unless he is represented by counsel and has executed a waiver of his presence at the preliminary conference, and the attorney for the defendant and district attorney shall appear at the district attorney's preliminary conference as scheduled by the district attorney.

Notice in writing of the preliminary conference shall be given by the district attorney to the defendant and counsel for the defendant, by first-class mail, at least ten (10) days prior to the conference date.

The failure of any defendant to appear at the preliminary conference who has not executed and filed of record in the Clerk of Courts Office with a copy given to the District Attorney, a waiver of his presence at the preliminary conference may result in a bond forfeiture, the issuance of a bench warrant and incarceration.

A preliminary conference form is attached hereto and is to be filled out by the district attorney and by the defense counsel or defendant and filed with copies provided to counsel of record or unrepresented defendants, and same is subject to change as experience dictates.

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DISTRICT ATTORNEY'S PRELIMINARY CONFERENCE

COMMONWEALTH

OF PENNSYLVANIA

vs.

:
:
: NO.
:
:
:
:

1. Will the above captioned case be

- | | |
|--|---------------------------------------|
| <input type="checkbox"/> guilty plea | <input type="checkbox"/> ARD |
| <input type="checkbox"/> jury trial | <input type="checkbox"/> plea bargain |
| <input type="checkbox"/> nonjury trial | <input type="checkbox"/> continuance |
| <input type="checkbox"/> nol pros | <input type="checkbox"/> unresolved |

2. List the caption and counsel of any other case or cases to be tried jointly with this case?

3. Does the defendant intend to file a petition to sever?

4. The defendant desires the following:

5. The district attorney agrees to furnish the following:

6. The district attorney and counsel for the defendant agree that the following exhibits may be admitted at trial the foundation of evidence usually required for the admission of said exhibits:

- | | |
|-----|--------------------------|
| (a) | (d) |
| (b) | (e) |
| (c) | (f) Other stipulations-- |

District Attorney

Counsel for Defendant

Defendant

Executed this _____ day of
_____, 19_____.

IN THE COURT OF COMMON PLEAS
CAMBRIA COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH :
OF PENNSYLVANIA : NO.
vs. :
_____ : CHARGE:
_____ :

WAIVER OF PRESENCE OF DEFENDANT

AT DISTRICT ATTORNEY'S PRELIMINARY CONFERENCE

I, _____, having been accused of
the above captioned crime and having fully discussed my right
to be present at said conference with my attorney, _____
_____, do hereby expressly waive my right to be
present at the District Attorney's Preliminary Conference
scheduled for _____.

I further authorize my attorney to make any agreements with
the District Attorney at said conference which I could make with
the same force and effect as if I were personally present at
said conference.

Executed this _____ day of _____, 19____.

Defendant

RULE NO. 51 ARGUMENT BRIEFS

When a motion for new trial or in arrest of judgment is filed on behalf of a defendant convicted at trial, counsel for the defendant shall file a supporting brief ten (10) days prior to the argument date and the Commonwealth shall file a responding brief within five (5) days prior to the argument date, unless otherwise directed by the Court.

RULE NO. 60 LOCAL REQUIREMENTS FOR PRIVATE DETECTIVES

7/9/81

60.1 LICENSE REQUIRED

No person shall engage in the private detective business or advertise a business to be a private detective business or private security business in this county, notwithstanding the name or title used in describing the business, without having first obtained a license to do so as hereinafter provided.

60.2 APPLICATION FOR LICENSE

Any person intending to conduct or conducting a private detective business or other security business in Cambria County shall file with the office of the Clerk of Courts a signed and verified application card. Applicant must be qualified for licensure according to law.

A) Individual License The application of an individual shall set forth the full name, age, residence, present and previous occupations, the address of the principal place of business and any branch office. The application shall include a passport size photograph in duplicate, a complete set of fingerprints, and evidence of liability insurance in the amount of \$500,000 - \$1,000,000. Applicant must also execute, deliver and file in the Clerk of Courts office corporate bond in the amount of \$10,000.00 conditioned for the faithful and honest conduct of such business by such applicant, which surety bond must be written by a corporate surety company authorized to do business in this Commonwealth as surety and approved by the Court of Common Pleas with respect to its form, manner of execution and sufficiency. In the event of revocation or surrender of license, no refund shall be made in respect of any license fee paid under the provisions of the Private Detective Act. Such bond shall be executed to the Commonwealth of Pennsylvania, and any person injured by the violation of any of the provisions of this act, or by the wilful, malicious or wrongful act of the principal or employee, or both, on said bond, in his own name, to recover damages suffered by reason of such wilful, malicious and wrongful act: provided, that the aggregate liability of the surety of all such damages shall in no event exceed the sum of such bond. In each and every suit or prosecution arising out of this act, the agency of any employee as to the employment and as to acting in the course of his employment shall be presumed.

The application must also include the references of five reputable community citizens who have certified under oath that they personally know the applicant and that they believe him to be honest and of good character.

1) Restrictions

- a) Security Guard should be 18 years of age or over.
- b) Business Licensee should be 25 years of age or over.
- c) Each Security Guard shall make affidavit as follows, upon which he may be issued an identification card as a Security Guard (also having passport size photo thereon as shown hereafter):

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CAMBRIA COUNTY

SECURITY GUARD IDENTIFICATION CARD

Employer: _____

AFFIDAVIT

Affiant deposes and states that he is authorized to make this affidavit and the facts contained herein are true and correct to the best of his knowledge, information and belief.

I am not a holder of an employment agency license nor barred from issuance of a license or performance of service as stated under 22 P.S. 16 (d) nor have I been convicted of a felony or any offense as stated under 22 P.S. 16 (b).

I (am) (am not) certified under the Lethal Weapon Training Act (22 P.S. § 41 et seq.) ,

I shall surrender this card upon termination of my employment.

Name

Sworn to and subscribed
before me this day
of , 19 .

(Seal) _____
Clerk of Courts

CAMBRIA COUNTY, PENNSYLVANIA
OFFICE OF THE CLERK OF COURTS

SECURITY GUARD

This certifies that the above named, whose photograph and signature appear hereon, is an official Security Guard employed by:

Cambria County, Pennsylvania

Term Expires:

Signature

James M. McNulty, Clerk of Courts

Identification cards must be surrendered upon termination of license or employment and Clerk of Courts of Cambria County notified to delete name from list. Cost of each I.D. Card issued shall be \$5.00.

d) No individual may carry carry a lethal weapon unless he is certified under the Lethal Weapons Training Act, Section 22 P.S. § 41 et seq. and submits evidence of his certification.

No individual is eligible for a license or Security Guard card if his license was previously revoked or if he was previously convicted in this Commonwealth or any other state of a felony or 1) illegally using, carrying, or possessing pistol or dangerous weapon, 2) making or possessing burglar's instrument, 3) buying or receiving stolen property, 4) unlawful entry of a building, 5) aiding escape from prison, 6) unlawfully possessing or distributing habit forming drugs, 7) picking pockets or attempting to do so, 8) soliciting any person to commit sodomy or other lewdness.

An individual application for license must be accompanied by \$200.00 to defray administrative and court costs.

B) Corporate License In the case of a corporation the application must include its name, date and place of incorporation, the names of three credit references and shall be signed and verified by each principal officer. Names and addresses of each shareholder owning more than 5% of the shares of the corporation must be kept updated and on file in the Clerk of Courts Office.

A corporate application shall be accompanied by \$300.00 to defray administrative and court costs.

60.3 INVESTIGATION OF APPLICANT

The application may be referred by the Court to the District Attorney's office and the district attorney shall direct an appropriate investigation of the applicant. In addition, the Court may require any additional information as necessary to show the good character, competency and integrity of the individual.

60.4 INCOMPATIBLE EMPLOYMENT

The following will be considered as incompatible to holding a private detective license. No applicant shall be

1. The holder of an employment agency license.
2. A member of any municipal or state police force.
3. Constable.
4. Probation Officer.
5. An individual who holds public office and possesses extraordinary police authority, not allowed private persons, for the benefit of the public.

Note: This section does not prevent a person from obtaining registration as a security guard if his public employer certifies that service as a security guard during hours when he is not pursuing regular duties is not prohibited.

60.5 ISSUANCE OF LICENSE

If after appropriate investigation, the Court is satisfied of the good character, competency, and integrity of the applicant, the Court shall issue to the applicant a business license for the premises stated in the application.

- 1) Posting
The business license shall be at all times displayed in a conspicuous place in the office for which it is issued and a pocket card must be carried by the licensee at all times.
- 2) Revocation
The business license is revocable at any time for cause shown.
- 3) Transfer
Transfer is permitted only with Court approval.
- 4) Renewal
A business license shall be renewed biennially and fees hereunder paid on renewal.

60.6 ENFORCEMENT

The district attorney shall enforce the provisions of this act and shall investigate any suspected violation of the business practices and methods of any applicant or licensee.

Criminal prosecutions for violation of these rules shall be brought by the district attorney.

A list of all security guards used or to be used in Cambria County shall be filed with the County Clerk of Courts and shall be kept current by licensee.

If dogs are to be used by security guards, application for use of same shall be made to the Court and special approval granted by the Court to those security guards who have taken a proper training course and have qualified in same.

Failure to adhere to these rules may result in termination of license privileges. Any arrest of any licensee or security guard will be an immediate suspension pending disposition of the charge.

The license issued hereunder will only be for security purposes unless otherwise stated by the Court on its grant of application.

60.7 ADDITIONAL STATE REQUIREMENTS

Any applicant is presumed to have complied with any state requirements which are or may be promulgated in regard to such a license. The provisions of the Private Detective Act of 1953 as amended (22 p.s. § 11 et seq) shall govern all licensees and Security Guards.

These local rules are not intended to conflict or to be inconsistent with any such state regulation and, if at all possible, the two should be construed as consistent.